

### REMARKS

This amendment is in response to the Examiner's Office Action dated December 21, 2005. A minor amendment is made to claim 28 to correct a grammatical error without adding new matter.

Also, neither the "Office Action Summary" nor the "Detailed Action" Officially cites the status of claim 21. Applicants have assumed (based on the comments by the Examiner on page 7 of the Office Action 12/21/2005) that Claim 21 stands rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Publication 2003/0033212 in view of U.S. Patent 6,347,307. Hence, the comments with respect to the rejection of claim 21 are presented based on this assumption.

Reconsideration of this application is respectfully requested in view of the foregoing amendment and the remarks that follow.

### STATUS OF CLAIMS

Claims 1, 3-16, 21, and 23-28 are pending.

Claims 1, 3-16, 21, and 23-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Publication 2003/0033212 in view of U.S. Patent 6,347,307.

### OVERVIEW OF CLAIMED INVENTION

The presently claimed invention provides an improved method of surveying prices located across an e-commerce environment (e.g., goods available in an auction, online catalog, or electronically connected supply center). The prior art has many systems which go out on the web and look-up prices and return the prices to the buyer. However, suppose a "small business"

wanted to negotiate the absolute best price from various sources on 50 printers, but chooses not to reveal its identity for fear of an associated cost mark-up or lower discount; the present invention allows the use of sophisticated buyer profiles (previously created over time and recognized by the seller as such) to get the best quote. In this scenario, the sophisticated buyer profile may be disguised to look like a very large business to optimize a volume discount and you and the next buyer and the next buyer could use this large business profile to continuously get the best prices. The seller only thinks that a large business is purchasing large quantities of printers, and gives a maximum discount without ever knowing that in fact the repeated buying history is performed by many smaller businesses. The present invention further will complete the purchase without ever revealing to the seller the true identity of the purchaser.

Another feature of the current invention is a method to uncover price structures, for example, to the airfare market. Airlines do not publish their fare structure. They do not make it clear how the fare depends on the time of the day, the day of the week and the date. The buyer tells the desired time of travel and the airline returns a fare. Airline fares are repeatedly probed by the present system for uncovering such structures. It then suggests to the buyers how money can be saved by changing the requested time of the day, day of the week, etc.

The present invention provides for a system and method facilitating transactions between buyers and sellers in an electronic commerce (e-commerce) model. When an item of interest is selected, the system scours the Internet to find the lowest price available for the desired product or service. Based on posted prices, bid prices, posted quotes, quoted prices, and auctions, the present invention ascertains wholesale prices and offers “advice” about the desired product or service. From the collected wholesale prices, reference points are generated that allow a system

to determine whether a particular vendor's pricing is reasonable. Reference points allow a user to be directed to those vendors typically having the lowest wholesale prices.

Furthermore, to enhance a competitive e-commerce marketplace, anonymous and fictitious user profiles comprising identities and reputations as sophisticated buyers are created to survey prices quoted by vendors. In this manner, statistical distributions based on prices anonymously gathered by the system are generated such that an individual buyer can compare the quote or price they receive from a vendor with those regularly observed by the system. The system also obtains specific quotes on behalf of a buyer using a fictitious name and identity. To preserve the anonymity of an individual buyer, an option to receive a shipment of the desired product at location different from that of the buyer is also provided.

#### In the Claims

#### REJECTIONS UNDER 35 USC 103(a)

Claims 1, 3-16, and 23-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Publication 2003/0033212 in view of U.S. Patent 6,347,307. To establish a *prima facie* case of obviousness under U.S.C. § 103, three basic criteria must be met. First, there must be some suggestion or motivation, either in the reference itself or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. Additionally, the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure (In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)).

Sandhu et al. teach a system and method that enables users, such as "Members" (e.g., institutional investors) and "Providers" (e.g., banks, financial institutions), to engage in capital market transactions, including the trading of over-the-counter financial products, via the Internet (including the World Wide Web). Sandhu et al.'s system includes a variety of servers, applications, and interfaces that enable users to interactively communicate and trade financial instruments among one another and to manage their portfolios. In Sandhu's system, automated communications enable connectivity with users' internal, back-end systems to execute automated, straight-through processing, including transaction pricing, payment scheduling and journaling, derivatives trading, trade confirmation, and trade settlement. Such communications are facilitated using a XML-based syntax ("FinXML") and XSL-based processing language ("FinScript"). FinXML provides a standard data interchange language for capital market transactions and supports a broad set of elements and attributes that represent a wide variety of financial transactions, reference data, and market data.

The Examiner, in the Office Action of 12/21/2005, cites paragraphs 207, 208, 244, and 1734-1740 of Sandhu ('212) as teaching all features of Applicants' independent claims 1 and 27, except for the feature of "one or more automated surveyors for surveying a plurality of posted prices, bid prices, posted quotes, quoted prices". Applicants respectfully disagree with the Examiner's assertion as Applicants respectfully assert that the '212 patent publication fails to provide for many of the other limitations of independent claims 1 and 27.

Specifically, paragraph 207 of the '212 patent publication outlines the steps involved in the submission of a "member's pricing request." Sandhu et al., in paragraph 207, further state

that during the submission of pricing requests, the member's identity does not have to be disclosed. Applicants contend that paragraph 207 of Sandhu et al. merely discloses that a user can remain anonymous during the submission of a pricing request. Paragraph 208 of '212 patent publication outlines "negotiations" involved in picking the right offer among a plurality of offers (that are put forth by a plurality of providers in response to the member's pricing request). However, the mere mention of negotiations to pick the right price or the mere maintenance of anonymity during the submission of a pricing request CANNOT be equated to the maintenance of an "anonymous buyer profile" that is "used multiple times to develop historical usage" wherein such historical usage represents a "sophisticated buyer." Absent such a teaching or suggestion, the '212 patent publication, either singularly or in combination with the '307 patent, CANNOT teach many of the features (as relied upon by the Examiner) of independent claims 1 and 27.

Paragraph 244 of the '212 patent publication expands on the "undisclosed party element 835" that is an element defined under the previously described FinXML syntax. Specifically, page 11, paragraph 221 of the '212 patent publication begins the discussion of elements of the FinXML syntax (which continues on to page 13), of which the cited undisclosed party element is a part (also see FIG. 3 – FinXML Trade Element Structure; and FIG. 4 – FinXML External Party Definition). In paragraph 241 of the '212 patent publication, Sandhu et al. define an "external" party as a "corporation and a third-party bank that engages in a foreign exchange transaction" and, in paragraph 242, further define that the "external" party can be either a "disclosed party" or an "undisclosed party." In paragraph 244 the '212 patent publication, Sandhu et al. state that "undisclosed party element 835 represents a party that remains anonymous to the other party; the only information disclosed is the party's credit rating."

Based on the above citations, and the '212 patent publication in its entirety, Applicants respectfully assert that Sandhu et al. merely suggest that an “external” party, such as “a corporation and a third-party bank”, that is NOT part of Sandhu et al.’s system (and hence their use of the term “external”) can chose to remain anonymous in its business transactions with Sandhu et al.’s system. Applicants also respectfully assert that there is NO teaching or suggestion in either the Examiner’s citations or the entire ‘212 patent publication for the “external party” of the ‘212 patent publication maintaining an “anonymous buyer profile” that is “used multiple times to develop historical usage” wherein such historical usage represents a “sophisticated buyer”. Absent such a teaching or suggestion, the ‘212 patent publication, either singularly or in combination with the ‘307 patent, CANNOT teach many of the features (as relied upon by the Examiner) of independent claims 1 and 27.

Paragraphs 1734-1740 of the ‘212 patent publication describe the “continuous pricing auction” embodiment of Sandhu et al. wherein “customized, continuous, price quotes *specific to a particular customer*” (emphasis added) are provided. Sandhu et al., in paragraph 1734, specifically clarify that the “system provides the quotes to *a particular customer based on the customer’s profile criteria*, for example, particular types of financial products for which the customer chooses to receive price quotes, and particular banks from which the customer choose to receive such quotes” (emphasis added). Paragraph 1735 further emphasizes that the continuous pricing auction system is “with respect to a particular customer.”

Paragraphs 1736-1737 outline how the continuous pricing auction embodiment is used in conjunction with a customer’s credit rating. Paragraphs 1738-1739 outline the functionality of

the “pricing server 9700” that displays the best offers (with respect to a price quote) to the customer. Paragraph 1740 is merely a title for the “best price” rules as per Sandhu et al., wherein the rules are used to highlight relevant price quotes. Applicants are unsure how the Examiner is interpreting ‘212’s feature of *using a customer’s profile to customize price quotes specific to the customer* to teach Applicants’ features of maintaining an “anonymous buyer profile” that is “used multiple times to develop historical usage” wherein such historical usage represents a “sophisticated buyer. Therefore, Applicants respectfully assert that the profile of ‘212 involves a “particular customer” and is NOT an “anonymous buyer profile” used multiple times to represent a “sophisticated buyer”. . Absent such a teaching or suggestion, the ‘212 patent publication, either singularly or in combination with the ‘307 patent, CANNOT teach many of the features (as relied upon by the Examiner) of independent claims 1 and 27.

Applicants agree with the Examiner’s statement on page 3 of the Office Action of 12/21/2005 that the ‘212 patent publication fails to teach Applicants’ feature of “one or more automated surveyors” for surveying a plurality of posted prices, bid prices, posted quotes, and quoted prices. However, Applicants respectfully disagree with the Examiner that such limitations are remedied by the ‘307 patent.

Specifically, the Examiner cites the abstract and column 2, lines 10-28 of the ‘307 patent as teaching Applicants’ “automated surveyors”. However, a closer reading of the citations and the entire ‘307 patent merely teaches “servers, applications, and interfaces that enable users to interactively communicate and trade financial instruments among one another” (emphasis added), wherein the “interactive communications” include “requesting price quotes, monitoring and reviewing quote requests, issuing price quotes, monitoring and reviewing price quotes,

negotiation between users, acceptance of price quotes, reporting, portfolio management, analysis of financial information and market data, calendaring, and communications among users and/or system administrators, including e-mail, chat, and message boards.”

Applicant wish to note that these communications (just as in the ‘212 patent publication) are, by Sandhu et al.’s admission, merely intended to enable users (NOT to develop anonymous buyer profiles) to communicate interactively. In other words, profiles are associated with particular users and communications are intended for particular users. There is NO teaching in the ‘307 patent, the ‘212 publication, or the combination of the ‘307 and ‘212 references for an “automated surveyor” having historical usage representing a sophisticated buyer, wherein the historical usage is developed based on multiple uses of an anonymous profile.

Hence, Applicants contend that the cited paragraphs fail to disclose an anonymous buyer profile that is used multiple times to develop historical usage representing a sophisticated buyer. Absent such a teaching or suggestion, the ‘212 patent publication, either singularly or in combination with the ‘307 patent, CANNOT teach many of the features (as relied upon by the Examiner) of independent claims 1 and 27.

With respect to independent claim 12, the Examiner once again relies on paragraphs 207, 208, 244, and 1734-1740 of the ‘212 patent publication and the Abstract and column 2, lines 10-28 of the ‘307 patent as teaching the features of claim 12. The above-mentioned arguments substantially apply to independent claim 12 as it recites many of the features recited in independent claims 1 and 27. However, as in the previous Office Action, the current Office Action also lacks any specifics with respect to where in the ‘212 reference, or the ‘307 patent, a



teaching can be found with regards to the limitations of using anonymous buyer profiles to develop sophisticated buyers and, based on discovered prices, notifying a seller regarding competitors (offering a better price) and influencing sellers to lower prices –limitations of independent claim 12.

Clarification is respectfully sought with respect to where specifically in the Sandhu references is the Examiner relying on to show the steps of: (1) electronically presenting information to *sellers* located across a network about sophisticated buyers, developed by historical usage of anonymous buyer profiles, who are not willing to pay more than a minimum price, and (2) indicating to *sellers* when they are competitive based on electronically gathered price information, and influencing the sellers to lower prices. Absent such a showing, it is respectfully submitted that the Sandhu reference cannot anticipate or render obvious Applicants claim 12.

As mentioned earlier, both the Sandhu references merely teach a system and method that enables users, such as "members" (e.g., institutional investors) and "providers" (e.g., banks, financial institutions), to engage in capital market transactions, including the trading of over-the-counter financial products, via the Internet (including the World Wide Web). In stark contrast, the method of claim 12 teaches the development of a sophisticated buyer profile which is then used to inform sellers of lower prices quoted by competitors and advises them to consider lowering their prices (i.e., influencing them to lower prices) – limitations that are neither taught nor suggested by the Sandhu et al. reference.

With respect to independent claim 21, the Examiner once again relies on paragraphs 207, 208, 244, and 1734-1740 of the '212 patent publication and the Abstract and column 2, lines 10-28 of the '307 patent as providing the features of claim 21. The above-mentioned arguments substantially apply to independent claim 21 as it recites many of the features recited in independent claims 1 and 27. Clarification is respectfully sought with respect to where specifically in the Sandhu references is the Examiner relying on to show the steps of: (1) generating fictitious user names"; (2) requesting price quotes using said fictitious name(s); (3) building reputation of said fictitious name(s) as sophisticated buyer(s); (4) continuously scanning commercial sites on a network using said sophisticated buyers to retrieve product price information, including at least quotes; (5) generating statistical distribution of said quotes, and (6) comparing a quote a known buyer receives to what has been observed in the system by the sophisticated buyer.

Based on the arguments presented above, Applicants respectfully contend that the combination of the '212 and '307 references fail to render obvious many of the limitations of independent claims 1, 12, 21, and 27. Hence, Applicants respectfully request the Examiner to withdraw the 35 U.S.C. §103(a) rejections of claims 1, 12, 21, and 27, and further request allowance thereof. Applicants also request the Examiner to withdraw the rejections with respect to dependent claims 3-11, 13-16, 23-26, and 28 as they depend from an allowable claim.

### SUMMARY

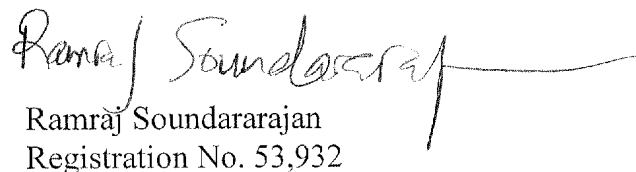
As has been detailed above, none of the references, cited or applied, provide for the specific claimed details of applicant's presently claimed invention, nor renders them obvious. It

is believed that this case is in condition for allowance and reconsideration thereof and early issuance is respectfully requested.

As this amendment has been timely filed within the set period of response, no petition for extension of time or associated fee is required. However, the Commissioner is hereby authorized to charge any deficiencies in the fees provided to Deposit Account No. 09-0441.

If it is felt that an interview would expedite prosecution of this application, please do not hesitate to contact applicant's representative at the below number.

Respectfully submitted,

  
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